



Sen. Ira I. Silverstein

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09300SB2409sam002

LRB093 20514 MKM 48892 a

1 AMENDMENT TO SENATE BILL 2409

2 AMENDMENT NO. _____. Amend Senate Bill 2409, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Property Tax Code is amended by adding
6 Section 22-31 as follows:

7 (35 ILCS 200/22-31 new)

8 Sec. 22-31. Procedure to prevent unjust issuance of deed.

9 (a) Definitions. For purposes of this Section:

10 "Residential property" means any real estate that is
11 improved with a single family residence or residential
12 condominium units or a multiple dwelling structure containing
13 single family dwelling units for 6 or fewer families living
14 independently of each other and includes a condominium unit.
15 The use of a portion of residential real estate for
16 non-residential purposes does not affect the characterization
17 of that real estate as residential real estate.

18 "Person designated to receive service" means the public
19 guardian of the county in which the property is located, or his
20 or her designee, or such other person as the chief judge of the
21 circuit court of that county so designates.

22 (b) Notice of tax deed petition after redemption period has
23 expired. In all proceedings for the issuance of a tax deed that
24 concern residential properties for which the owner of record

1 has not redeemed the taxes within the redemption period,
2 including any extensions of the redemption period, the tax
3 purchaser, or his or her assignee, shall serve the person
4 designated to receive notice with a copy of the notice required
5 by Section 22-10. The manner of service shall be made pursuant
6 to Supreme Court Rule 105(b)(1) or Supreme Court Rule
7 105(b)(2). With regard to any residential property, no tax deed
8 shall issue until 60 days after the date that the person
9 designated to receive notice has been formally served with
10 notice of the tax deed proceeding.

11 (c) Investigation of owner of record's capacity. Upon
12 receipt of the notice referred to in subsection (b), the person
13 designated to receive notice shall conduct an investigation of
14 the owner of record's capacity. The investigation shall be
15 concluded within 60 days after the receipt of that notice. On
16 petition to the court in the tax deed proceeding, with notice
17 to the tax purchaser, the time to conclude the investigation
18 may be extended for an additional 60 days for good cause shown.
19 No tax deed shall issue during any such extension of time. The
20 person designated to receive notice has the right to have the
21 clerk of the court issue subpoenas and the right to petition
22 the court in the tax deed proceeding for additional assistance,
23 including a request to be named guardian ad litem, as may be
24 necessary to conduct the investigation that is required by this
25 Section.

26 (d) Appointment of guardian. If the person designated to
27 receive notice concludes that the owner of record may be a
28 disabled person, as defined in Article XIa of the Probate Act
29 of 1975, and that appointment of a guardian under Article XIa
30 of the Probate Act of 1975 may be necessary to protect the
31 interests of the owner of record, then the person designated to
32 receive notice shall cause a petition for guardianship to be
33 filed in the appropriate court in the county in which the
34 property is located. The tax deed petitioner shall be served

1 with formal notice of the petition for guardianship. The notice
2 shall include a copy of the petition for guardianship. The
3 manner of service shall be made pursuant to Supreme Court Rule
4 105(b)(1) or Supreme Court Rule 105(b)(2). The tax deed
5 petitioner may appear in the guardianship proceeding in order
6 to object to a finding that the owner of record was disabled
7 during any portion of the redemption period or to seek a ruling
8 that the owner of record was not disabled during the redemption
9 period.

10 Upon the filing of a petition for guardianship, all further
11 proceedings in the tax deed proceeding shall be stayed until
12 further order of the court in which the guardianship proceeding
13 is pending. If, as a result of the petition for guardianship,
14 the probate court adjudges the owner of record to be a disabled
15 person and appoints a guardian of the estate pursuant to
16 Section 11a-3 of the Probate Act of 1975, the court shall also
17 determine by a preponderance of the evidence whether the owner
18 of record was disabled and unable to manage his or her estate
19 during any portion of the redemption period. If the court
20 determines that the owner of record was disabled and unable to
21 manage his or her estate during any portion of the redemption
22 period, the guardian shall be entitled to redeem from the tax
23 sale within 6 months after the date of the appointment of the
24 guardian. Unless the court determines that the owner of record
25 was disabled and was unable to manage his or her estate
26 throughout the redemption period, the court shall enter an
27 order lifting the stay of the tax deed proceedings. A finding
28 that the owner of record was not disabled during any portion of
29 the redemption period does not preclude that person from
30 raising any other available defenses to the issuance of a tax
31 deed in the tax deed proceeding.

32 (e) Reimbursement to the person entitled to notice. The
33 person entitled to notice is entitled to reimbursement for the
34 reasonable costs of the investigation undertaken pursuant to

1 this Section, including reasonable attorney's fees, whether or
2 not a guardian is appointed, provided that the amount of
3 reimbursement is approved by the court. The person entitled to
4 receive notice may bring a petition for reimbursement of costs
5 and attorney's fees in either the court hearing the
6 guardianship proceeding or the court hearing the tax deed
7 proceeding. The reimbursement for costs and attorney's fees
8 approved by the court shall be paid from the indemnity fund
9 created in the county under Section 21-295 of this Act. If a
10 guardian of the estate for the owner of record is appointed,
11 the guardian shall petition the court in the probate proceeding
12 for authority to reimburse the indemnity fund from the estate
13 of the owner of record for any costs paid from the indemnity
14 fund that relate to the investigation of the owner of record
15 under this Section. Upon that petition, the court shall order
16 reimbursement unless that reimbursement will cause substantial
17 hardship to the owner of record."